

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Dr. ORLY TAITZ, Esq.)	
)	
Plaintiff,)	
)	
v.)	Civil No. 13-1020 (RCL)
)	
PATRICK DONAHOE,)	
Postmaster General, <i>et al.</i> ,)	
)	
Defendants.)	
)	

DEFENDANTS’ ANSWER

Defendants hereby answer the Freedom of Information Act (“FOIA”) complaint by Plaintiff.¹

First Affirmative Defense

Plaintiff has failed to state a claim upon which relief may be granted.

Second Affirmative Defense

Information Plaintiff seeks in its FOIA request is exempt from production under FOIA.

Third Affirmative Defense

Plaintiff’s claims are barred by its failure to timely exhaust administrative remedies.

¹ On October 10, 2013, Defendants requested that the Court set the due date for this Answer for a date 30 days after the restoration of appropriations to the Department of Justice, or November 15, 2013. *See* Notice Regarding Service of Complaint, dkt. no. 6, at 4 and accompanying proposed order. The Court retains the authority to do so pursuant to Fed. R. Civ. P. 6(b)(1), and for the reasons set forth in that previous filing, Defendants respectfully request that the Court enter an order *nunc pro tunc* recognizing this pleading as timely filed.

Fourth Affirmative Defense

Defendants' actions did not violate FOIA or any other statute, regulation, or provision of law.

Fifth Affirmative Defense

Defendants are not proper parties to a FOIA action.

Sixth Affirmative Defense

Plaintiff has failed to demonstrate that this Court has subject matter jurisdiction over this action.

Defendant's Responses to the Numbered Paragraphs

Answering the numbered paragraphs of Plaintiff's complaint, Defendants respond as follows:

1. Admit that Plaintiff submitted a document to the United States Postal Service ("USPS"). The remainder of this paragraph sets forth Plaintiff's characterization of the document she submitted, to which no response is required. To the extent a response is required, deny.
2. This paragraph contains Plaintiff's characterization of a document, to which no response is required. To the extent a response is required, deny.
3. Defendant is without knowledge or information sufficient to confirm or deny the allegations in this paragraph.
4. As to the first sentence, admit that Plaintiff made a FOIA request. The remainder of this sentence contains Plaintiff's characterization of the purpose of her FOIA request, to which no response is required; to the extent a response is required, deny. As to the second sentence, the second

sentence contains a legal conclusion to which no response is required. As to the third and fourth sentences, deny. The fifth sentence contains Plaintiff's characterization of this action, to which no response is required; to the extent a response is required, deny.

Defendant's Responses to the Remainder of Plaintiff's Allegations

Following the four numbered paragraphs, the "Allegations" section of Plaintiff's Complaint contains an alleged excerpt of "5 USC 552." Defendant admits that 5 U.S.C. § 552 is the Freedom of Information Act, to which the Court may refer for its full text.

Beginning on page 15 of Plaintiff's complaint are four unnumbered paragraphs of "allegations." Defendant responds as follows:

As to the first paragraph, deny.

As to the second paragraph, this paragraph sets forth a legal conclusion to which no response is required. To the extent a response is required, deny.

As to the third paragraph, this paragraph sets forth Plaintiff's characterization of her FOIA request, to which no response is required. To the extent a response is required, deny.

As to the fourth paragraph, deny.

The remainder of Plaintiff's complaint consists of Plaintiff's conclusions of fact and law, to which no response is required. To the extent a response is required, deny.

Dated: November 13, 2013

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

ELIZABETH J. SHAPIRO
Deputy Branch Director

/s Eric J. Soskin

ERIC J. SOSKIN (PA Bar 200663)
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel: (202) 353-0533
Fax: (202) 305-2685
Email: Eric.Soskin@usdoj.gov

Attorneys for Defendants